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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/002,600	01/05/1998	THEODORE D WUGOFSKI	450.224US1	7990
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32719 7590 09/09/2002

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EXAMINER

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ART UNIT

PAPER NUMBER

2615

DATE MAILED: 09/09/2002

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Paper No. 25

Application Number: 09/002,600

Filing Date: 1/5/98

Appellant(s): Wugofski

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Eduardo E. Drake

For Appellant

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**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 6/25/02.

**(1) *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

**(2) *Related Appeals and Interferences***

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4) *Status of Amendments After Final***

The statement of the status of the claims contained in the brief is correct.

**(5) *Summary of Invention***

The summary of invention contained in the brief is correct.

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**(6) Issues**

The appellant's statement of the issues in the brief is substantially correct. The changes are as follows:

1) Claims 11,13,17,21&24 were finally rejected under 35 U.S.C. 102(b) as shown in paragraph \$3 of **Final Office Action** mailed 10/24/01.

2) Claims 1-2,8-11&26 were finally rejected under 35 U.S.C. 103(a) as shown in paragraph #5 of final office action mailed 10/24/01. Please note that claims 11,13,17,21&24 were never rejected under 35 U.S.C. 103(a) as shown in the heading of paragraph #5 of the final office action mailed 10/24/01.

3) The amendment after final office action filed 1/24/02 **merely added a limitation of the “ ... user input being non-determinative of the recording time...”** of claim 1 to claims 11,17,21&24.

4) Since the limitation of “.. **user input being non-determinative of the recording time...**” of claim 1 is added to claims 11,17,21&24 presented in the **amendment After Final Office Action** mailed 1/24/02, the rejections of claims 11,13,17,21&24 become the **same ground** of the rejection of **claim 1** presented in paragraph #3 of the **Final Office Action** mailed 10/24/01 **which is 35 U.S.C. 103(a)**.

5) Since the ground of rejection of claims 11,13,17,21&24 has been changed because of the amendment after final action mailed 1/24/02, the issue in the brief for issue 6A of page 4 of Appellant's Brief On Appeal should be:

Was it proper to maintain the rejections of claims 11,13,17,21 and 24 under 35 U.S.C. 103(a).

The issues of 6B, 6C and 6D are correct.

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**(7) Grouping of Claims**

Appellant's brief includes a statement that claims 1,2,4-13,15-17,20,21,24&26 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

**(8) Claims Appealed**

A substantially correct copy of appealed claims 1,2,4-13,15-17,20,21,24&26 appears on page 18 of the Appendix to the appellant's brief. The minor errors are as follows: amendments after final were added to claims 11,17,21&24.

**(9) Prior Art of Record**

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

4,706,121	Young	11-1987
6,275,268	Ellis et al	8-2001
5,467,197	Hoff	11-1995
5,047,867	Strubbe et al	9-1991

**(10) Grounds of Rejection**

The ground of rejection of claims 11,13,17,21&24 has been changed from 35 U.S.C. 102(b) to 35 U.S.C. 103(a) because in the after final amendment filed 1/24/02 which adds the limitation "...receiving user input ...with the user input being non-determinative of the recording time..." to claims 11,17,21&24. The ground of claims 11,13,17,21&24 is not new ground of rejection but it is merely the same ground of rejection as of claim 1 presented in the Final Office Action mailed 10/24/01.

The following ground(s) of rejection are applicable to the appealed claims:

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*Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2,8-11,13,17,21,24&26 rejected under 35 U.S.C. 103(a) as being unpatentable over Young (US 4,706,121) in view of Ellis et al (US 6,275,268).

Regarding claim 1, Young discloses in Fig.3,4&4b an electronic system and process which receives the schedule information in broadcast form and then processes the schedule information to make the selections and a system that will enable a user to program a video cassette recorder (VCR) for unattended operation by making a simple selection from a menu, including computerized system ( see col.21, line 65 to col.22, line 26), the method comprising:

a) scheduling a data recording for the recording device, with the data recording to begin at a recording time ( see Abstract and also col.7, line 60 to col.8, line);

b) receiving user input at least partially determinative of a recording reminder time for the scheduled recording ( see col.7, line 60 to col.8, line 3; col.15, lines 20-27);

c) outputting a recording reminder signal at a time based on the recording reminder time, before the recording device initiates automatic execution of the scheduled data recording (see col.20, lines 40-65).

Young discloses the method of receiving user input at least partially determinative of a recording reminder time for the scheduled recording (see the discussions above). Young fails to explicitly disclose the

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method of receiving user input at least partially determinative of a recording reminder time for the scheduled recording, with the user input being non-determinative of the recording time.

Ellis et al teach in Fig. 1, 13 & 14 an electronic program schedule system which provides a user with schedule information for broadcast or cablecast programs viewed by the user on a television receiver, wherein if while viewing program schedule information for a future time in BROWSE mode, the user depresses the ENTER key on the remote controller 31, the microcontroller 16 will instruct the video display generator (VDG) 23 to display a REMINDER overlay message 130 (see Fig. 13) which queries the user as to whether the system should remind the user, at a predetermined time before the start of a scheduled program that the user would like to view the scheduled program. If the user responds affirmatively, the microcontroller 16 stores reminder data consisting of at least the channel, time and day of the selected program in a reminder buffer, which contains similar schedule information for all programs for which the user has set a reminder. At a predetermined time before the selected program start time, for example, five minutes, the microcontroller 16 will retrieve schedule information, including title and service, based on the reminder data, and will instruct the VDG 23 to display a REMINDER 140 on the television receiver 27 to remind the user that the user previously set a reminder to watch the selected program. The REMINDER message 140 contains the channel, service and start time. It also displays the number of minutes before the time of airing of the particular show and updates the display every minute until the time of airing (see microcontroller 16 and VDG 23 of Fig. 1, and col. 15, lines 17-57).

Automatic reminding the user of previously set reminder to view (or record) a selected program provides the desirable advantage of preventing the user from failing to view (or record) a program for which the viewer had previously set a reminder.

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It would have been obvious to further modify Young by realizing Young with the means to automatically remind the user of previously set reminder to view a a program for which the viewer had previously set a reminder, as taught by Ellis, since this provides the desirable advantage of preventing the user from failing to view a program for which the viewer had previously set a reminder.

Ellis teaches the principle of automatically reminding a viewer of a previously set reminder, for example, to view a program for which the viewer had previously set a reminder. It would have been obvious, therefore, to apply similar principle to automatically remind a user, of the modified Young system, of a previously set reminder, for example, to record a program for which the viewer had previously set a reminder, since this also would provide the desirable advantage of preventing the user from failing to record a program for which the user had previously set a reminder.

Regarding claim 2, Young discloses the method wherein scheduling a data recording for the recording device occurs before receiving input at least partially determinative of a recording reminder ( see col.15, lines 20-27).

Regarding claim 8, Young discloses the method wherein scheduling the data recording includes communicating a recording instruction to the computerized system, and wherein the method further comprises calculating and storing the recording reminder time based on at least the user input and at least a portion of the recording instruction before outputting the "reminder" signal ( see col.21, line 65 to col.22, line 26).



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Regarding claim 9, Young discloses the method wherein the recording instruction includes a channel identifier, a start time, and an end time ( see col.14, lines 9-15; col.14, lines 55-66).

Regarding claim 10, Young discloses wherein outputting a reminder signal at the predetermined time before the time of the data recording includes comparing a system time to the recording reminder time (see col.20, lines 40-65).

Regarding claim 11, Young discloses in Fig.3, 4&4b an electronic system and process which receives the schedule information in broadcast form and then processes the schedule information to make the selections and a system that will enable a user to program a video cassette recorder (VCR) for unattended operation by making a simple selection from a menu, including computerized system ( see col.21, line 65 to col.22, line 26), comprising:

- a) scheduling a data recording for the recording device, with the data recording to begin at a recording time ( see Abstract and also col.7, line 60 to col.8, line 3);
- b) receiver for receiving one or more channel signals, each carrying one or more programs ( see col.7, line 33 to col.8, line 22);
- c) a recording device, coupled to the receiver, for automatic recording one of the programs ( see VCR 150; col.7, line 60 to col.8, line 22);
- d) means for receiving user input regarding a recording reminder time (see CPU 110; col.7, line 60 to col.8, line 22);

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e) means for determining a recording reminder time for at least the one program based on the recording time and the user input regarding the recording reminder (see col.15, lines 20-27);

f) an outputting device for outputting a reminder signal at the recording reminder time before the recording device initiates automatic recording of the one program (see col.20, lines 40-65);

g) means for causing the recording device to begin automatic recording of the one program independently of the determined recording reminder time (see col.20, lines 40-65).

Young fails to disclose means for receiving user input regarding a recording reminder time, with the user input being non-determinative of the recording time.

Ellis et al teach in Fig. 1, 13 & 14 an electronic program schedule system which provides a user with schedule information for broadcast or cablecast programs viewed by the user on a television receiver, wherein if while viewing program schedule information for a future time in BROWSE mode, the user depresses the ENTER key on the remote controller 31, the microcontroller 16 will instruct the video display generator (VDG) 23 to display a REMINDER overlay message 130 (see Fig. 13) which queries the user as to whether the system should remind the user, at a predetermined time before the start of a scheduled program that the user would like to view the scheduled program. If the user responds affirmatively, the microcontroller 16 stores reminder data consisting of at least the channel, time and day of the selected program in a reminder buffer, which contains similar schedule information for all programs for which the user has set a reminder. At a predetermined time before the selected program start time, for example, five minutes, the microcontroller 16 will retrieve schedule information, including title and service, based on the reminder data, and will instruct the VDG 23 to display a REMINDER 140 on the television receiver 27 to remind the user that the user previously set a reminder to watch the selected program. The

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REMINDER message 140 contains the channel, service and start time. It also displays the number of minutes before the time of airing of the particular show and updates the display every minute until the time of airing (see microcontroller 16 and VDG 23 of Fig.1, and col.15, lines 17-57).

Automatic reminding the user of previously set reminder to view (or record) a selected program provides the desirable advantage of giving the user the opportunity to, for example, change or cancel a previously selected program before the program is viewed (recorded).

It would have been obvious to further modify Young by realizing Young with the means to automatically remind the user of previously set reminder to view a program for which the viewer had previously set a reminder, as taught by Ellis, since this provides the desirable advantage of giving the user the opportunity to, for example, change or cancel a previously selected program before the program is viewed (recorded).

Ellis teaches the principle of automatically reminding a viewer of a previously set reminder, for example, to view a program for which the viewer had previously set a reminder. It would have been obvious, therefore, to apply similar principle to automatically remind a user, of the modified Young system, of a previously set reminder, for example, to record a program for which the viewer had previously set a reminder, since this also would provide the desirable advantage of giving the user the opportunity to, for example, change or cancel a previously selected program before the program is recorded.

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Regarding claim 13, Young discloses wherein the output device comprises a computer and a display ( see CPU 110 and video display generator 136; col.7, line 60 to col.8, line 22)

Regarding claim 17, Young discloses in Fig.3,4&4b an electronic system and process which receives the schedule information in broadcast form and then processes the schedule information to make the selections and a system that will enable a user to program a video cassette recorder (VCR) for unattended operation by making a simple selection from a menu, including computerized system ( see col.21, line 65 to col.22, line 26), the method comprising:

- a) receiving user input at least partially determinative of a recording reminder time for a scheduled automatic data recording, with the recording reminder time preceding a time of the scheduled automatic data recording by an amount of time based on the user input ( see col.7, line 60 to col.8, line 3; col.15, lines 20-27; and col.20, lines 40-65), at the time the user sets a reminder determines how long the monitoring of the reminder process by the system lasts before recording begins. For example, assuming the reminder is set at 2:00 pm by a user input for a program scheduled to record at 10:00 pm, then the monitoring then lasts from 2:00 pm to 10:00 pm, and if, on the other hand, the reminder is set at 1:00 pm, by the user input, for a program scheduled to record at 8:00 pm, the monitoring lasts from 1:00 pm to 8:00 pm;
- b) outputting a recording reminder signal at a time based on the recording reminder time, before the recording device initiates automatic execution of the scheduled data recording (see col.20, lines 40-65).

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Young fails to explicitly disclose receiving user input at least partially determinative of a recording reminder time for a scheduled automatic recording and non-determinative of a time for initiating the scheduled data recording.

Ellis et al teach in Fig. 1, 13 & 14 an electronic program schedule system which provides a user with schedule information for broadcast or cablecast programs viewed by the user on a television receiver, wherein if while viewing program schedule information for a future time in BROWSE mode, the user depresses the ENTER key on the remote controller 31, the microcontroller 16 will instruct the video display generator (VDG) 23 to display a REMINDER overlay message 130 (see Fig. 13) which queries the user as to whether the system should remind the user, at a predetermined time before the start of a scheduled program that the user would like to view the scheduled program. If the user responds affirmatively, the microcontroller 16 stores reminder data consisting of at least the channel, time and day of the selected program in a reminder buffer, which contains similar schedule information for all programs for which the user has set a reminder. At a predetermined time before the selected program start time, for example, five minutes, the microcontroller 16 will retrieve schedule information, including title and service, based on the reminder data, and will instruct the VDG 23 to display a REMINDER 140 on the television receiver 27 to remind the user that the user previously set a reminder to watch the selected program. The REMINDER message 140 contains the channel, service and start time. It also displays the number of minutes before the time of airing of the particular show and updates the display every minute until the time of airing (see microcontroller 16 and VDG 23 of Fig. 1, and col. 15, lines 17-57).

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Automatic reminding the user of previously set reminder to view (or record) a selected program provides the desirable advantage of giving the user the opportunity to, for example, change or cancel a previously selected program before the program is viewed (recorded).

It would have been obvious to further modify Young by realizing Young with the means to automatically remind the user of previously set reminder to view a a program for which the viewer had previously set a reminder, as taught by Ellis, since this provides the desirable advantage of giving the user the opportunity to, for example, change or cancel a previously selected program before the program is viewed (recorded).

Ellis teaches the principle of automatically reminding a viewer of a previously set reminder, for example, to view a program for which the viewer had previously set a reminder. It would have been obvious, therefore, to apply similar principle to automatically remind a user, of the modified Young system, of a previously set reminder, for example, to record a program for which the viewer had previously set a reminder, since this also would provide the desirable advantage of giving the user the opportunity to, for example, change or cancel a previously selected program before the program is recorded.

Regarding claim 21, the claimed limitations of claim 21 are accommodated in the discussions of claim 17 above.

Regarding claim 24, the claimed limitations of claim 24 are accommodated in the

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discussions of claim 11 above, including the additional limitation of receiving “two or more reminder-time inputs”( see at least col.7, line 60 to col.8, line 22); here the user can schedule for recording more than one desired program, with each of the desired programs having its own different reminder time since the selected programs may run at different times.

Regarding claim 26, Young discloses determining the recording reminder time based on the received user input, with the recording reminder time preceding the recording time for the scheduled recording by an amount of time based on the received user input ( see col.20, lines 40-65), at the time the user sets a reminder determines how long the monitoring of the reminder process by the system lasts before recording begins. For example, assuming the reminder is set at 2:00 pm by a user input for a program scheduled to record at 10:00 pm, then the monitoring then lasts from 2:00 pm to 10:00 pm, and if, on the other hand, the reminder is set at 1:00 pm, by the user input, for a program scheduled to record at 8:00 pm, the monitoring lasts from 1:00 pm to 8:00 pm.

3. Claims 4-6,12&15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Young in view of Ellis and further in view of Hoff ( US 5,467,197).

Regarding claim 4, Young and Ellis fail to explicitly disclose the method wherein the recording reminder signal comprises outputting a message to a network communication device associated with at least one user of the computerized system. Hoff teaches the method wherein outputting the recording "reminder" signal comprises outputting message to a network communication device associated with at least one user of the computerized system ( see col. 10, line 29 to col. 11, line 48). It would have been

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obvious to one of ordinary skill to further modify Young by realizing Young with the means to output reminder messages to a network communication device, as taught by Hoff, which would increase the capability of Young thereby making Young more commercially attractive.

Regarding claim 5, Young and Ellis fail to disclose wherein outputting the reminder signal comprises outputting a message concerning the scheduled recording to a pager. Hoff teaches the method wherein outputting the "reminder" signal comprises outputting a message concerning the scheduled recording to a pager ( see col.3, lines 23-27, and col.5, lines 29-45).

It would have been obvious to one of ordinary skill in the art to further modify Young by realizing Young with the means to output reminder messages concerning the scheduled recording to a pager, as taught by Hoff, which would further increase the capability of Young, thereby making Young even more commercially attractive.

Regarding claim 6, Hoff teaches the method wherein outputting the reminder signal includes outputting a verbal message, a textual message, or an audible tone( see col.5, lines 29-45). It would have been obvious to further modify Young by realizing Young with the means wherein outputting the reminder signal includes outputting a verbal message, a textual message, or an audible tone in order to output reminder signals including a verbal message, a textual message, or an audible tone would make the reminder signal more quickly heard or observed, as the case may be.

Regarding claim 12, the claimed limitations of claim 12 are accommodated in the



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discussions of claim 4 above.

Regarding claim 15, the claimed limitations of claim 15 are accommodated in the discussions of claim 6 above.

4. Claims 7,16&20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Young in view of Ellis and further in view of Strubbe et al ( US 5,047,867).

Regarding claim 7, Young and Ellis fail to explicitly disclose the method wherein outputting a reminder signal includes outputting a message concerning recording media, but which Strubbe teaches in col.6, lines 25-49. Including a message concerning recording media in outputting a reminder signal makes eliminates, for example, the possibility of using a recording medium with insufficient recording room to record a scheduled program, thereby running the risk of losing some valuable part of a program to be recorded. It would have been obvious to one of ordinary skill in the art to add a message concerning recording media in the output reminder signal, as taught by Strubbe, since this would eliminates, for example, the possibility of using a recording medium with insufficient recording room to record a scheduled program, thereby running the risk of losing some valuable part of a program to be recorded.

Regarding claims 16&20, Young and Ellis fail to explicitly disclose the method wherein outputting a reminder signal includes outputting a message concerning recording media, but which Strubbe teaches in col.6, lines 25-49. Including a message concerning recording media in outputting a reminder signal eliminates, for example, the possibility of using a recording medium with insufficient recording room to

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record a scheduled program, thereby running the risk of losing some valuable part of a program to be recorded. It would have been obvious to one of ordinary skill in the art to add a message concerning recording media in the output reminder signal, as taught by Strubbe, since this would eliminate, for example, the possibility of using a recording medium with insufficient recording room to record a scheduled program, thereby running the risk of losing some valuable part of a program to be recorded.

**(11) *Response to Argument***

In re pages 5-6, with reference to claims 11,13,17,21&24 appellant argues that it is not proper to reject claims 11,13,17,21&24 under 35 U.S.C 102(b) as anticipated by Young (US 4,706,121) since claims 11,17,21&24 were amended in the Amendment After Final by the addition to each of these claims the limitation of "...with user input being non-determinative of the recording time...".

In response, Claims 11,13,17,21&24 were finally rejected under 35 U.S.C. 102(b) as shown in paragraph #3 of final office action mailed 10/24/01. Claims 1-2,8-11&26 were finally rejected under 35 U.S.C. 103(a) as shown in paragraph #5 of final office action mailed 10/24/01. Please note that claims 11,13,17,21&24 were never rejected under 35 U.S.C. 103(a) as shown in the heading of paragraph #5 of the final office action mailed 10/24/01. The amendment after final office action filed 1/24/02 merely added a limitation of the "... user input being non-determinative of the recording time..." of claim 1 to claims 11,17,21&24. Since the limitation of "... user input being non-determinative of the recording time..." of claim 1 is added to claims 11,17,21&24 presented in the amendment after final office action mailed 1/24/02, the rejections of claims 11,13,17,21&24 become the same ground of the rejection of claim 1 presented in paragraph #3 of the final office action mailed 10/24/01 which is 35 U.S.C. 103(a).

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In re pages 6-12, appellant argues, with reference to claims 1,2,8-10&26 that the combination of Young and Ellis fails to meet the terms of the rejected claims since Ellis reports a user input for an adjustable reminder for viewing programs, but not receiving user input at least partially determinative of a recording reminder time for a scheduled recording, with the user input being non-determinative of the recording time; and that the combination is impermissible for lack of insufficient motivation to combine.

In response, in the last office action, the examiner states that Young discloses the method of receiving user input at least partially determinative of a recording reminder time for the scheduled recording (see the discussions above). And, that Young fails to explicitly disclose the method of receiving user input at least partially determinative of a recording reminder time for the scheduled recording, with the user input being non-determinative of the recording time.

Ellis et al teach in Fig. 1,13&14 an electronic program schedule system which provides a user with schedule information for broadcast or cablecast programs viewed by the user on a television receiver, wherein if while viewing program schedule information for a future time in BROWSE mode, the user depresses the ENTER key on the remote controller 31, the microcontroller 16 will instruct the video display generator (VDG) 23 to display a REMINDER overlay message 130 (see Fig.13) which queries the user as to whether the system should remind the user, at a predetermined time before the start of a scheduled program that the user would like to view the scheduled program. If the user responds affirmatively, the microcontroller 16 stores reminder data consisting of at least the channel, time and day of the selected program in a reminder buffer, which contains similar schedule information for all programs for which the user has set a reminder. At a predetermined time before the selected program start time, for example, five minutes, the microcontroller 16 will retrieve schedule information, including title and service,

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based on the reminder data, and will instruct the VDG 23 to display a REMINDER 140 on the television receiver 27 to remind the user that the user previously set a reminder to watch the selected program. The REMINDER message 140 contains the channel, service and start time. It also displays the number of minutes before the time of airing of the particular show and updates the display every minute until the time of airing (see microcontroller 16 and VDG 23 of Fig.1, and col.15, lines 17-57).

Automatic reminding the user of previously set reminder to view a selected program provides the desirable advantage of giving the user the opportunity to, for example, change or cancel a previously selected program before the program is viewed.

It would have been obvious to further modify Young by realizing Young with the means to automatically **remind the user of previously set reminder to view a program for which the viewer had previously set a reminder**, as taught by Ellis, since this provides the desirable advantage of giving the user the opportunity to, for example, change or cancel a previously selected program before the program is viewed.

Ellis teaches the principle of automatically reminding a viewer of a previously set reminder, for example, to view a program for which the viewer had previously set a reminder. It would have been obvious, therefore, to apply similar principle to automatically remind a user, of the modified Young system, of a previously set reminder, for example, to record a program for which the viewer had previously set a reminder, since this also would provide the desirable advantage of giving the user the opportunity to, for example, change or cancel a previously selected program before the program is recorded.

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Here the examiner modifies Young with Ellis because Ellis teaches the principle of automatically reminding a user of a previously set reminder which Young fails to disclose. Young discloses the principle of advanced television program recording whereby a user sets a recorder to automatically record a television program which is scheduled to be shown some time in the future.

With Young modified with Ellis, Ellis could remind a user about a reminder that the user had set about a program scheduled to be shown some time in the future which the user may want to view . Furthermore, this Ellis reminder principle can be extended to include reminding a user about a reminder that the user had set about a program scheduled to be shown some time in the future which the user may want to record.

It is, therefore, clear that the reminder system of Young is not the same as the reminder system of Ellis. It is this different reminder system of Ellis that would be added to Young when Young is modified with Ellis.

Furthermore, examiner's stated motivation for combining Young with Ellis simply states that it would have been obvious to apply the Ellis reminder principle to Young to automatically remind a user of a previously set reminder, for example, to record a program for which the user had previously set, since this would provide the desirable advantage of giving the user the opportunity to, for example, change or cancel a previously selected program before the program is recorded. Examiner maintains that the motivation of reminding a user of a previously set reminder to record a selected program, giving the user the opportunity to make changes to or cancel the selected program for recording before the program is recorded, would have been a sufficient motivation to combine Young with Ellis.

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Additionally, appellant adds that “there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teaches, and that, therefore, the proposed motivation to modify Young “...giving the user the opportunity to make changes to or cancel the selected program for recording before the program is recorded”.

In response, it is pertinent to point out that the test for obviousness is not whether the features of the reference may be bodily incorporated into the other to produce the claimed subject matter but simply what the references make obvious to one of ordinary skill in the art. In re Bozek, 163 USPQ 545, (CCPA 1969); In re Richman, 165 USPQ 509, (CCPA 1970); In re Beckum, 169 USPQ 47, (CCPA 1971); In re Sneed, 710 F.2d 1544, 218 USPQ 385. Also, it is not necessary that the references actually suggest, expressly or in so many words, the changes or improvements that applicant has made. The test for combining references is what the reference as a whole would have suggested to one of ordinary skill in the art. In re Sheckler, 168 USPQ 716, (CCPA 1971); In re McLaughlin, 170 USPQ 209, (CCPA 1971); In re Young, 159 USPQ 726, (CCPA 1968).

In re pages 12-15, appellant argues, with reference to claims 4,5&12, that Hoff, like Young and Ellis, fails to teach or suggest “outputting a (recording reminder) message to a network communication device associated with at least one user of the computerized system”; that there is no indication in Hoff that the personal pager messages transmitted to the network communication device are reminder messages concerning scheduled or programmed VCR recordings; that the asserted motivation to combine Hoff with Young is insufficient to lead one of ordinary skill to make the proposed combination; and that no teaching or suggestion is cited to support that Young would be more commercially attractive with addition of Hoff.

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In response Hoff is cited only to suggest the transmission of messages through a communication network, for example, pager messages. The transmission of recording reminder messages to a communication network and the transmission of pager messages through a communication network to a network device, as taught by Hoff, has similar application whether the messages being transmitted through a communication network is a pager message or a recording reminder message. A reference must be considered not only for what it expressly teaches, but also what it fairly suggests. In re Burckel, 592 F.2d 1175, 201 USPQ 67 (CCPA 1979). The artisan is presumed to know something about the art apart from what references literally disclose. In re Jacoby, 309 F.2d 513, 135 USPQ 317 (CCPA 1962). It would have been obvious to the artisan to transmit recording reminder messages through a communication network to a network device in the same manner that the pager messages are being transmitted through a communication network to network device for the same purpose. The superior results of transmitting pager messages through a communication network to a network device are all that would be needed to motivate the artisan to apply the same principle Hoff of transmitting pager messages through the communication network to a pager (a recording system) in transmitting recording reminder messages through a communication network to another recording system, for example.

In re pages 16-17, appellant argues, with reference to claims 7,16&20, that Strubbe does not teach or suggest an act or means for receiving user input at least partially determinative of a recording reminder time for the scheduled data recording, with the user input being non-determinative of the recording time, as rejected claims 7, 16&20 require by virtue of their dependence on claims 1,11&17.

Art Unit: 2615

In response, examiner's response to appellant's argument with respect to claims 1,2,8-10&26 above, which include the same subject matter of the appellant's argument with respect to claims 7,16&20 is cited to accommodate the response for appellant's argument with respect to claims 7,16&20.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

  
COO

December 6, 2001

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